

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE**
(Eastern Division)

STATE OF TENNESSEE, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	No. 1:17-cv-01040-STA-egb
)	
UNITED STATES DEPARTMENT OF)	
STATE, <i>et al.</i> ,)	
)	
Defendants.)	
)	

**MOTION FOR EXTENSION OF TIME
AND FOR ENLARGEMENT OF PAGE LIMITS**

INTRODUCTION

Defendants¹ hereby move for (i) an extension of time from May 15 to June 1, 2017, to file their motion to dismiss Plaintiffs’² Complaint for Declaratory and Injunctive Relief (ECF No. 1) (the “Complaint”); and (ii) an enlargement of the page limits applicable to the parties’ memoranda in support of and opposition to Defendants’ motion. Plaintiffs consent to the requested extension of time, and to the enlargement of the page limits for the parties’ principal

¹ The Defendants to this action are the United States Department of State; Rex Tillerson, in his official capacity as Secretary of State; the Bureau of Population, Refugees, and Migration; Simon Henshaw, in his official capacity as Acting Assistant Secretary of State for Population, Refugees, and Migration; the United States Department of Health and Human Services; Thomas E. Price, in his official capacity as Secretary of Health and Human Services; the Office of Refugee Resettlement; and Ken Tota, in his official capacity as Acting Director of the Office of Refugee Resettlement.

² The Plaintiffs are the State of Tennessee, by and through the Tennessee General Assembly; the Tennessee General Assembly; Senator John Stevens, individually and in his official capacity as a Member of the Tennessee Senate; and Representative Terri Lynn Weaver, individually and in her official capacity as a Member of the Tennessee House of Representatives.

briefs, but oppose the requested enlargement for Defendants' reply brief. For the reasons stated herein, Defendants' motion should be granted.

REQUEST FOR EXTENSION OF TIME

Plaintiffs filed their Complaint on March 13, 2017, asserting that federal laws requiring States that participate in the Medicaid program (42 U.S.C. § 1396 *et seq.*) to furnish medical assistance to individuals admitted to the United States as refugees exceed Congress's authority under the Spending Clause, U.S. Const. art. I, § 8, and violate the Tenth Amendment, *id.* amend. X. Plaintiffs served their Complaint on the U.S. Attorney's Office by certified mail on March 16, 2017. Under Federal Rule of Civil Procedure 12(a)(2), Defendants' response to the Complaint is due to be filed on May 15, 2017.

Defendants anticipate that they will move to dismiss the Complaint pursuant to Federal Rule of Civil Procedure 12(b)(1) and (b)(6), contending that Plaintiffs lack standing, that their claim is unripe, that district court review of their claim is precluded, and that their claim under the Spending Clause and the Tenth Amendment lacks merit. Defendants' counsel have worked diligently to prepare their motion to dismiss, but due to the number and complexity of the issues, and the unexpectedly heavy press and urgency of business in other litigation for which undersigned counsel is responsible, Defendants require additional time, until June 1, 2017, to complete their memorandum of facts and law supporting their motion.

As reflected by Plaintiffs' consent to Defendants' request, the modest extension of time sought herein will neither cause prejudice to Plaintiffs nor unduly delay the progress of these proceedings.

REQUEST FOR ENLARGEMENT OF PAGE LIMITS

Due to the number and complexity of the issues to be briefed in connection with Defendants' motion to dismiss, Defendants also seek an enlargement of the page limits

applicable under the Court's Local Rules. Under LR 7.2(c) and 12.1(c), the parties' memoranda in support of and opposition to Defendants' motion may not exceed 20 pages in length, and Defendants' reply may not exceed 10 pages, unless otherwise ordered by the Court. Defendants seek enlargement of the limit applicable to the parties' supporting and opposing memoranda from 20 to 35 pages, and of the limit on Defendants' reply from 10 to 15 pages. The requested enlargement of the page limits is necessary to permit the parties to address adequately both the threshold jurisdictional issues and the merits issues presented by the Complaint.

As noted above, Plaintiffs consent to Defendants' request for modification of the page limits applicable to the parties' principal briefs, but oppose an increase for Defendants' reply. Given the modesty of the increase requested, from 10 pages to 15, that request too should be allowed.

CONCLUSION

For the reasons stated above, Defendants' requests for an extension of time from May 15 to June 1, 2017, to file their motion to dismiss the Complaint, and for an enlargement of the page limits applicable to the parties' memoranda in support of and opposition to Defendants' motion, should be granted.

Dated: May 8, 2017

Respectfully submitted,

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Acting United States Attorney

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/s/ James J. Gilligan

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CERTIFICATE OF CONSULTATION

Pursuant to LR 7.2(a)(1)(B), I hereby certify that on May 2, 2017, I conferred by telephone, and on May 4 and 8, 2017, by electronic mail, with Richard Thompson, counsel for Plaintiffs, regarding the relief requested by the foregoing Motion for Extension of Time and for Enlargement of Page Limits. Mr. Thompson advised that Plaintiffs are in agreement with the action requested by the motion, with the exception of Defendants' request for an enlargement of the page limit applicable to Defendants' reply brief.

/s/ James J. Gilligan

James J. Gilligan
Counsel for Defendants

CERTIFICATE OF SERVICE

Pursuant to LR 7.2(a)(1), I hereby certify that on May 8, 2017, I served the foregoing Motion for Extension of Time and for Enlargement of Page Limits on all counsel of record by filing it with the Court by means of its Electronic Case Filing system.

/s/ James J. Gilligan

James J. Gilligan
Counsel for Defendants